

[Service Date February 9, 2006]

**BEFORE THE WASHINGTON STATE
UTILITIES AND TRANSPORTATION COMMISSION**

WASHINGTON UTILITIES AND	)	DOCKET NO. TV-051482
TRANSPORTATION COMMISSION,)	
)	
Complainant,	)	ORDER NO. 02
)	
v.)	
)	
BUSBY, DAN D/B/A CAREFUL MOVERS;	)	FINAL ORDER MODIFYING
CASCADE MOVING & STORAGE, INC.;	)	INITIAL ORDER, IN PART, AS TO
CUMMINGS MOVING SYSTEMS, LLC;	)	W.W. KASSNER D/B/A
EMAD KADEM AL-MOSAWI D/B/A	)	INDUSTRIAL TRANSFER CO. and
SUNSHINE MOVERS; FRANZ, CLARA	)	T & T MILK TRANSPORT, INC.;
MARLENE D/B/A PROGRESSIVE MOVERS;	)	AFFIRMING AND ADOPTING
G.J. DANIELS, INC.; HAROLD LEMAY	)	INITIAL ORDER, IN PART, AS TO
ENTERPRISES, INC.; HUTSON, CHARLES	)	REMAINING CARRIERS
EDWARD D/B/A HUTSON & SONS)	
MOVING & PACKING; W.W. KASSNER)	
D/B/A INDUSTRIAL TRANSFER CO.;)	
LINCOLN MOVING & STORAGE CO.,)	
INC.; LINDSEY, JERRY D/B/A JERRY)	
LINDSEY EXCAVATING; MASKELYNE)	
TRANSFER & STORAGE, INC.; MAUST)	
CORP, THE; METROPOLITAN MOVERS,)	
INC.; PACIFIC NORTHWEST MOTOR)	
FREIGHT LINES, INC.; POZZI BROTHERS)	
TRANSPORTATION, INC.; RISK, DON C.,)	
JR., D/B/A PEOPLE MOVERS; SELL,)	
WILLIAM L.; SPECIALTY MOVING, INC.;)	
SWAN'S MOVING & STORAGE CO., INC.;)	
T & T MILK TRANSPORT, INC.;)	
WASHINGTON MOVING & STORAGE,)	
INC.,)	
)	
Respondents.)	
)	
.....)	

- 1 **Synopsis:** *This final order grants the request of W.W. Kassner, d/b/a Industrial Transfer, and T & T Milk Transport, Inc., to modify the initial order to dismiss the complaint against the carrier. In other respects, this order affirms the initial order. In doing so, it dismisses the Complaint and Order to Show Cause against fourteen household goods companies because they complied with reporting and fee requirements and dismisses the Complaint and Order to show cause against two companies that chose to voluntarily cancel their household goods carrier permits. In addition, this order cancels the household goods carrier permits of four household goods companies for failure to file an annual report as required by RCW 81.04.080, and failure to comply with reporting and fee requirements of WAC 480-15-480.*
- 2 **Nature of the Proceeding:** This is a proceeding in which the Commission ordered twenty-two household goods carriers to appear and show cause why their household goods permits should not be canceled for the carriers' failure to file annual reports or to pay regulatory fees.
- 3 **Procedural History:** On November 29, 2005, the Commission entered a Complaint and Order to Show Cause Why Permit Should Not Be Canceled for Failure to Pay Regulatory Fees and/or Failure to File 2004 Annual Report; and Notice of Hearing against the listed respondents. The matter was heard upon due and proper notice by Administrative Law Judge (ALJ) Theodora M. Mace on December 19, 2005, in Olympia, Washington. Within the time allowed for filing petitions for administrative review, Industrial Transfer Company petitioned for reinstatement of the Permit No. CC-1794, held in the name of W. W, Kassner, d/b/a Industrial Transfer Company, and T&T Milk Transport, Inc., holder of Permit No. HG-8685 petitioned for dismissal of the complaint against it. No other party petitioned for administrative review.

4 **Final Order:** The Commission grants the request to reinstate CC-1794 of W.W. Kassner and HG-8685 of T & T Milk Transport, Inc. In all other respects, the Commission affirms and adopts the result of the initial order.

5 **Appearances:** The Commission Staff is represented by Assistant Attorney General Jennifer Cameron-Rulkowski, Olympia, Washington. Specialty Moving is represented by David Wiley, attorney, Seattle, Washington. W. W. Kassner was represented by Ben E. Ives, for the estate of W. W. Kassner. T & T Milk Transport was represented by John O. Cooney, attorney, Spokane. No other respondent entered an appearance in this matter.

DISCUSSION

6 **Background.** Public service companies, including household goods carriers, are required to file an annual report with the Commission. *RCW 81.04.080*. In addition, they are required to file with the Commission a statement showing gross operating revenue from intrastate operations for the preceding calendar year, and to pay a fee to the Commission based on gross operating revenue. *WAC 480-15-480*. The Commission sends annual report forms to the address on record with the Commission for each household goods carrier permit holder. *Id.* Each permit holder must submit an annual report and remit regulatory fees by May 1 of each year. *Id.*

7 The Commission sent annual report forms to each of the respondents of record in this proceeding. A search of Commission records indicated that respondents failed to comply with reporting and/or fee requirements of *RCW 81.04.080* and *WAC 480-15-480* by May 1, 2005.

8 On November 29, 2005, the Commission served a complaint and order to show cause on respondents requiring them to appear before the Commission on December 19, 2005, to answer the complaint, and to show cause why their

household goods carrier permits should not be canceled for failure to file an annual report as required by RCW 81.04.080, and failure to comply with reporting and fee requirements of WAC 480-15-480.

- 9 **Hearing.** At the hearing on December 19, 2005, Commission Staff presented the testimony of Ms. Sheri Hoyt, Compliance Specialist with the Commission's Businesses Practices Investigation Section. Ms. Hoyt sponsored thirteen exhibits which were admitted in evidence. Ms. Hoyt testified that respondents Cascade Moving; Sunshine Movers; G.J. Daniels; LeMay; Hutson Moving; Lincoln Moving; Lindsey Excavating; Maskelyne Transfer; Metropolitan Movers; People Movers; William Sell; Specialty Moving; Swan's Moving; and, Washington Moving complied with RCW 81.04.080 and WAC 480-15-480 by filing their annual reports and/or remitting their regulatory fees prior to the Show Cause hearing. *Tr.* 7-13, 17-26, *Exhibits* 1-7; 9-14. Ms. Hoyt recommended that the Commission not cancel the permits of these companies because they are now in compliance with statutory and regulatory reporting and fee requirements. *Id.*
- 10 Ms. Hoyt testified that, based on her investigation, the following companies did not file their 2004 Annual Reports or pay their 2005 regulatory fees: Careful Movers; Progressive Movers; Industrial Transfer; Maust; Pacific Northwest; Pozzi Brothers; and T&T Milk. Therefore, Ms. Hoyt recommended that the Commission cancel the permits of these companies. *Tr.* 12-20,
- 11 Commission Staff moved to dismiss Cummings Moving from this proceeding because the company had filed a letter voluntarily cancelling its permit.
- 12 **Post-hearing Motion to Dismiss Pozzi Brothers.** On December 30, 2005, Commission Staff filed a motion to dismiss Pozzi Brothers from this proceeding. Staff stated that on December 16, 2005, Pozzi Brothers had filed a request to remove its household goods authority from its common carrier permit. The

Commission granted the request on December 19, 2005.¹ Staff stated that it did not become aware of the company's voluntary surrender of its household goods authority until December 29, 2005, ten days after the evidentiary proceeding in this case.

- 13 **Initial order.** The administrative law judge entered an initial order on January 4, 2006, that proposed dismissing the complaint against specified carriers.
- 14 **Post-order pleadings.** Within the time for seeking administrative review of initial orders, the estate of W. W. Kassner petitioned to reinstate the permit of W. W. Kassner, and T & T Milk Transport petitioned to reopen the record. Both petitions sought admission of information showing compliance with requirements of law and dismissal of the complaint against the identified carrier. Commission Staff answered the petitions, in each instance acknowledging compliance and supporting the requested remedy.
- 15 **Discussion and Conclusion.** The Commission received no pleadings with regard to any respondent except Kassner and T & T. The initial order should be affirmed and adopted, with the exception of the proposed result for Kassner and T & T. Consistent with Commission practice in prior proceedings and with the public interest, the complaint should be dismissed against those carriers based on their compliance with law and regulation prior to the time for submission of the final pleading in this docket.
- 16 The Commission may cancel a household goods carrier permit for good cause, including failure to submit an annual report or failure to pay regulatory fees. WAC 480-15-450. The un rebutted evidence presented by Commission Staff shows that Careful Movers; Progressive Movers; Maust; and Pacific Northwest violated Washington State law, and the Commission's rules and that they remain out of compliance despite the opportunity in this docket to remedy their

¹ Docket No. TV-051948, Order Reissuing Permit As Amended, December 22, 2005.

noncompliance. Therefore, the household goods permits of these companies should be cancelled.

FINDINGS OF FACT

- 17 (1) The Washington Utilities and Transportation Commission is an agency of the state of Washington, vested by statute with authority to regulate public service companies, including companies that hold authority to transport household goods in the state of Washington for compensation.
- 18 (2) Each of the respondents of record in this proceeding is a public service company as defined in RCW 81.04.010 and holds authority to transport household goods in the state of Washington for compensation.
- 19 (3) The Commission sent annual report forms and instructions to the address on record with the Commission for each of the named respondents.
- 20 (4) A search of Commission records indicated that respondents failed to comply with reporting and/or fee requirements of RCW 81.04.080 and WAC 480-15-480 by May 1, 2005.
- 21 (5) On November 29, 2005, the Commission entered a Complaint and Order to Show Cause ordering each respondent to appear and show cause why its permit should not be canceled.
- 22 (6) During a Show Cause hearing on December 19, 2005, Commission Staff testified that respondents Cascade Moving; Sunshine Movers; G.J. Daniels; LeMay; Hutson Moving; Lincoln Moving; Lindsey Excavating; Maskelyne Transfer; Metropolitan Movers; People Movers; William Sell; Specialty Moving; Swan's Moving; and, Washington Moving filed their annual reports and/or remitted their regulatory fees prior to the hearing.

- 23 (7) Staff testified that Cummings Moving filed a request for voluntary cancellation of its permit.
- 24 (8) On December 30, 2005, Staff filed a motion to dismiss Pozzi Brothers from this proceeding because the Commission had granted the company's request to remove household goods authority from its common carrier permit.
- 25 (9) Careful Movers; Progressive Movers; W. W. Kassner; Maust; Pacific Northwest; and T&T Milk failed to appear at the hearing on December 19, 2005, and show cause why their permits should not be canceled. Subsequently, W. W. Kassner and T & T Milk petitioned for relief from the result proposed in the initial order.
- 26 (10) The files and records of the Commission show that Careful Movers; Progressive Movers; Maust; and Pacific Northwest failed to file their annual reports for 2004 or remit regulatory fees for 2005 in compliance with RCW 81.04.080 and WAC 480-15-480.

CONCLUSIONS OF LAW

- 27 (1) The Washington Utilities and Transportation Commission has jurisdiction over the subject matter of this proceeding and all parties to this proceeding.
- 28 (2) The Complaint and Order to Show Cause directed to Cascade Moving; Cummings Moving; Sunshine Movers; G.J. Daniels; LeMay; Hutson Moving; Lincoln Moving; Lindsey Excavating; Maskelyne Transfer; Metropolitan Movers; People Movers; Pozzi Brothers; William Sell; Specialty Moving; Swan's Moving; W. W. Kassner d/b/a Industrial

Transport, T & T Milk Transport, and Washington Moving should be dismissed.

- 29 (3) Good cause exists under WAC 480-15-450 to cancel the household goods carrier permits of Careful Movers; Progressive Movers; Maust; and Pacific Northwest.

ORDER

30 IT IS HEREBY ORDERED That Cascade Moving; Cummings Moving; Sunshine Movers; G.J. Daniels; LeMay; Hutson Moving; Lincoln Moving; Lindsey Excavating; Maskelyne Transfer; Metropolitan Movers; People Movers; Pozzi Brothers; William Sell; Specialty Moving; Swan's Moving; W. W. Kassner, d/b/a Industrial Transport; T & T Milk Transport; and Washington Moving are each dismissed from this proceeding.

31 IT IS FURTHER ORDERED That the household goods carrier permits of Careful Movers; Progressive Movers; Maust; and Pacific Northwest are canceled.

DATED at Olympia, Washington, and effective this 8th day of February, 2006.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

MARK H. SIDRAN, Chairman

PATRICK J. OSHIE, Commissioner

PHILIP B. JONES, Commissioner

NOTICE TO PARTIES: This is a final order of the Commission. In addition to judicial review, administrative relief may be available through a petition for reconsideration, filed within 10 days of the service of this order pursuant to RCW 34.05.470 and WAC 480-07-850, or a petition for rehearing pursuant to RCW 80.04.200 or RCW 81.04.200 and WAC 480-07-870.